

hearing. Where construction of the project also requires the approval of another agency of the Federal Government by or before whom a hearing is to be held, the Vice President may arrange with such agency to hold a joint hearing.

§ 1304.6 Appeals.

(a) Decisions approving or disapproving an application may be appealed as provided in this section. Decisions by the Vice President's designee shall be reviewed by the Vice President; decisions by the Vice President shall be reviewed by the Board.

(b) If a designee of the Vice President disapproves an application or approves it with terms and conditions deemed unacceptable by the applicant, the applicant may, by written request addressed to the Vice President, Resource Stewardship, Tennessee Valley Authority, P.O. Box 1589, 17 Ridgeway Road, Norris, TN 37828-1589, and mailed within thirty (30) days after receipt of the decision, obtain review of the decision by the Vice President. If the Vice President, either initially or as the result of an appeal, disapproves an application or approves it with terms and conditions deemed unacceptable by the applicant, the applicant may, by written request addressed to the Board of Directors, Tennessee Valley Authority, 400 W. Summit Hill Drive, Knoxville, TN 37902, and mailed within thirty (30) days after receipt of the decision, obtain review of the decision by the Board. In either event, the request must contain a signed representation that a copy of the written request for review was mailed to each party of record at the same time as it was mailed to TVA. A decision by the Vice President is a prerequisite for seeking Board review. There shall be no administrative appeal of a Board decision approving or disapproving an application.

(c) A party of record at a hearing who is aggrieved or adversely affected by any decision approving an application may obtain review by the Board or by the Vice President, as appropriate, of such decision by written request prepared, addressed and mailed as provided in paragraph (b) of this section.

(d) Requests for review by the Vice President shall specify the reasons why

it is contended that the determination of the Vice President's designee is in error.

(e) The applicant or other person requesting review and any party of record may submit additional written material in support of their positions to the Vice President within thirty (30) days after receipt by TVA of the request for review. Following receipt of a request for review, the Vice President will conduct such review as he or she deems appropriate. If additional information is required of the applicant or other person requesting the review, the Vice President shall allow for at least thirty (30) days in which to provide the additional information. At the conclusion of the review, the Vice President shall render his or her decision approving or disapproving the application.

(f) Requests for review by the Board shall specify the reasons why it is contended that the Vice President's determination is in error and indicate whether a hearing is requested.

(g) The applicant or other person requesting review and any party of record may submit additional written material in support of their positions to the Board within thirty (30) days after receipt by TVA of the request for review. Following receipt of a request for review, the Board will review the material on which the Vice President's decision was based and any additional information submitted by any party of record, or a summary thereof, and may conduct or cause to be conducted such investigation of the application as the Board deems necessary or desirable. In the event the Board decides to conduct an investigation, it shall appoint an Investigating Officer. The Investigating Officer may be a TVA employee, including a TVA Resource Stewardship employee, or a person under contract to TVA, and shall not have been directly and substantially involved in the decision being appealed. The Investigating Officer shall be the hearing officer for any hearing held during the appeal process. At the conclusion of his or her investigation, the Investigating Officer shall summarize the results of the investigation in a written report to the Board. The report shall be provided to all parties of record and made part

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of the public record. Based on the review, investigation, and written submissions provided for in this paragraph, the Board shall render its decision approving or disapproving the application.

(h) A written copy of the decision in any review proceeding under this section, either by the Vice President or by the Board, shall be furnished to the applicant and to all parties of record promptly following determination of the matter.

§ 1304.7 Conditions of approvals.

Approvals of applications shall contain such conditions as are required by law and may contain such other general and special conditions as TVA deems necessary or desirable.

§ 1304.8 Denials.

TVA may, at its sole discretion, deny any application to construct, operate, conduct, or maintain any obstruction, structure, facility, or activity that in TVA's judgment would be contrary to the unified development and regulation of the Tennessee River system, would adversely affect navigation, flood control, public lands or reservations, the environment, or sensitive resources (including, without limitation, federally listed threatened or endangered species, high priority State-listed species, wetlands with high function and value, archaeological or historical sites of national significance, and other sites or locations identified in TVA Reservoir Land Management Plans as requiring protection of the environment), or would be inconsistent with TVA's Shoreline Management Policy. In lieu of denial, TVA may require mitigation measures where, in TVA's sole judgment, such measures would adequately protect against adverse effects.

§ 1304.9 Initiation of construction.

A permit issued pursuant to this part shall expire unless the applicant initiates construction within eighteen (18) months after the date of issuance.

§ 1304.10 Change in ownership of approved facilities or activities.

(a) When there is a change in ownership of the land on which a permitted facility or activity is located (or own-

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ership of the land which made the applicant eligible for consideration to receive a permit when the facility or activity is on TVA land), the new owner shall notify TVA within sixty (60) days. Upon application to TVA by the new owner, the new owner may continue to use existing facilities or carry out permitted activities pending TVA's decision on reissuance of the permit. TVA shall reissue the permit upon determining that the facilities are in good repair and are consistent with the standards in effect at the time the permit was first issued.

(b) Subsequent owners are not required to modify existing facilities constructed and maintained in accordance with the standards in effect at the time the permit was first issued provided they:

(1) Maintain such facilities in good repair; and

(2) Obtain TVA approval for any repairs that would alter the size of the facility or for any new construction.

§ 1304.11 Little Tennessee River; date of formal submission.

As regards structures on the Little Tennessee River, applications are deemed by TVA to be formally submitted within the meaning of section 26a of the Act, on that date upon which applicant has complied in good faith with all applicable provisions of § 1304.2.

Subpart B—Regulation of Nonnavigable Houseboats

§ 1304.100 Scope and intent.

This subpart prescribes regulations governing existing nonnavigable houseboats that are moored, anchored, or installed in TVA reservoirs. No new nonnavigable houseboats shall be moored, anchored, or installed in any TVA reservoir.

§ 1304.101 Nonnavigable houseboats.

(a) Any houseboat failing to comply with the following criteria shall be deemed a non-navigable houseboat and may not be moored, anchored, installed, or operated in any TVA reservoir except as provided in paragraph (b) of this section: